

[COMMITTEE PRINT]

**[Showing H.R. 1954 As Reported by the Committee on Finance
and Hazardous Materials on November 2, 1999]**

106TH CONGRESS
1ST SESSION

H. R. 1954

To regulate motor vehicle insurance activities to protect against retroactive regulatory and legal action and to create fairness in ultimate insurer laws and vicarious liability standards.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. BRYANT (for himself, Mr. OXLEY, Mr. BURR of North Carolina, Mr. LARGENT, Mr. SHADEGG, Mr. PICKERING, and Mr. COBURN) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To regulate motor vehicle insurance activities to protect against retroactive regulatory and legal action and to create fairness in ultimate insurer laws and vicarious liability standards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rental Fairness Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. No additional insurance commissioner authority created.
Sec. 3. Definitions.

TITLE I—REGULATION OF MOTOR VEHICLE RENTAL INSURANCE
AGENCY ACTIVITIES

Sec. 101. Findings and purposes.
Sec. 102. Standard of regulation for motor vehicle rentals.
Sec. 103. Sunset.

TITLE II—ULTIMATE INSURER AND VICARIOUS LIABILITY
FAIRNESS

Sec. 201. Findings and purposes.
Sec. 202. General fairness and responsibility rule.
Sec. 203. State minimum financial responsibility laws for motor vehicles.
Sec. 204. Applicability and effective date.

8 **SEC. 2. NO ADDITIONAL INSURANCE COMMISSIONER AU-**
9 **THORITY CREATED.**

10 This Act shall not create any new authority for a
11 State insurance commissioner or other appropriate insur-
12 ance regulator of such State to issue a regulation, order,
13 or other statutorily authorized interpretation or action
14 governing the provisions of this Act except in accordance
15 with the relevant State insurance law.

16 **SEC. 3. DEFINITIONS.**

17 For purposes of this Act:

1 (1) CLAIMANT.—The term “claimant” means
2 any person who brings a civil action for any theory
3 of harm caused by a motor vehicle or the use of a
4 motor vehicle and any person on whose behalf such
5 an action is brought.

6 (2) HARM.—The term “harm” means any phys-
7 ical injury, illness, disease, or death or damage to
8 property caused by a motor vehicle.

9 (3) MOTOR VEHICLE.—The term “motor vehi-
10 cle” shall have the meaning given to this term under
11 section 13102(14) of title 49, United States Code.

12 (4) OWNER.—The term “owner” means—

13 (A) a person who is a record or beneficial
14 owner or long-term lessee of a motor vehicle;

15 (B) a person entitled to the use and pos-
16 session of a motor vehicle subject to a security
17 interest in another person; or

18 (C) a lessee or bailee of a motor vehicle, in
19 the trade or business of renting or leasing
20 motor vehicles, having the use or possession
21 thereof under a lease, bailment, or otherwise.

22 (5) PERSON.—The term “person” means any
23 individual, corporation, company, limited liability
24 company, trust, association, firm, partnership, soci-

1 ety, joint stock company, or any other entity (includ-
2 ing any governmental entity).

3 **TITLE I—REGULATION OF**
4 **MOTOR VEHICLE RENTAL IN-**
5 **SURANCE AGENCY ACTIVI-**
6 **TIES**

7 **SEC. 101. FINDINGS AND PURPOSES.**

8 The Congress finds that—

9 (1) State regulation of insurance continues to
10 be in the public interest, as affirmed by the
11 McCarran-Ferguson Act;

12 (2) where States have laws which regulate the
13 business of insurance, those State laws should not be
14 invalidated, impaired, or superseded by any con-
15 struction of a Federal Act of Congress unless such
16 Act specifically relates to the business of insurance;

17 (3) for those States which have not yet imple-
18 mented regulations explicitly governing the sale of
19 short term insurance offered with the rental of a
20 motor vehicle, it may be appropriate to prohibit
21 third-parties from enforcing on a retroactive basis
22 general licensure requirements against those who so-
23 licit the purchase of or sell such insurance; and

24 (4) many States are now considering such legis-
25 lation and the relief against such actions offered by

1 this title should thus expire once the States have
2 had a reasonable opportunity to consider appropriate
3 legislation.

4 **SEC. 102. STANDARD OF REGULATION FOR MOTOR VEHI-**
5 **CLE RENTALS.**

6 (a) PROTECTION AGAINST THE RETROACTIVE APPLI-
7 CATION OF REGULATORY AND LEGAL ACTION.—Except
8 as required by subsection (b), it shall be presumed that
9 no State law imposes any licensing, appointment, or edu-
10 cation requirements on any person who solicits the pur-
11 chase of or sells insurance connected with and incidental
12 to a rental transaction of a motor vehicle.

13 (b) PREEMINENCE OF STATE INSURANCE LAW.—
14 Nothing in this section shall alter the validity, interpreta-
15 tion, construction, or effect of—

16 (1) any State statute,

17 (2) the prospective application of any court
18 judgment interpreting or apply any State statute, or

19 (3) the prospective application of any final
20 State regulation, order, bulletin, or other statutorily
21 authorized interpretation, or action,

22 which, by its specific terms, expressly regulates or exempts
23 from regulation any person or entity which solicits the
24 purchase of or sells insurance connected with and inci-

1 dental to a short term lease or rental transaction of a
2 motor vehicle.

3 (c) DEFINITION.—For purposes of this section, a per-
4 son shall be considered to be soliciting the purchase of
5 or selling insurance connected with and incidental to a
6 rental transaction of a motor vehicle if the rental trans-
7 action is for a total period of 90 consecutive days or less,
8 and the insurance is provided for a period of consecutive
9 days not exceeding the length of the rental.

10 **SEC. 103. SUNSET.**

11 This title shall expire 3 years after the date of its
12 enactment.

13 **TITLE II—ULTIMATE INSURER**
14 **AND VICARIOUS LIABILITY**
15 **FAIRNESS**

16 **SEC. 201. FINDINGS AND PURPOSES.**

17 The Congress finds that—

18 (1) the vast majority of State statutes and com-
19 mon law follow the generally accepted principle of
20 law that a party should be held liable only for harm
21 that the party could guard against;

22 (2) a small number of State common laws and
23 statutes still do not recognize this accepted principle
24 of law, and continue to subject companies that rent
25 or lease motor vehicles to vicarious liability for the

1 negligence of their rental customers in operating the
2 motor vehicle simply because of the company's own-
3 ership, even where the rental company has not been
4 negligent in any way and the motor vehicle operated
5 perfectly;

6 (3) an even smaller minority of State laws con-
7 tinue to force companies that rent or lease motor ve-
8 hicles into the role of an ultimate insurer, imposing
9 unlimited potential liability on the companies for the
10 tortious acts of their customers, without regard to
11 fault; and

12 (4) these small number of vicarious liability and
13 ultimate insurer laws impose a disproportionate and
14 undue burden on interstate commerce by increasing
15 rental rates for all customers across the Nation, and
16 furthermore, pose a significant competitive barrier to
17 entry for smaller companies attempting to compete
18 in these markets, in contravention of the funda-
19 mental legal principle of fairness prohibiting liability
20 without fault.

21 **SEC. 202. GENERAL FAIRNESS AND RESPONSIBILITY RULE.**

22 No person engaged in the business of renting or leas-
23 ing a motor vehicle shall be placed in the position of an
24 ultimate insurer of its rental customers, or the occupants
25 of its rental vehicles, or be liable to a claimant for the

1 tortious act of another solely by reason of being an owner
2 of such motor vehicle.

3 **SEC. 203. STATE MINIMUM FINANCIAL RESPONSIBILITY**
4 **LAWS FOR MOTOR VEHICLES.**

5 Nothing in this title shall relieve any person engaged
6 in the business of renting or leasing a motor vehicle from
7 the obligation to comply with a State's minimum financial
8 responsibility or insurance statute or regulations imposed
9 by that State for the privilege of registering and operating
10 a motor vehicle within that State.

11 **SEC. 204. APPLICABILITY AND EFFECTIVE DATE.**

12 Notwithstanding any other provision of law, this title
13 shall apply with respect to any action commenced on or
14 after the date of enactment of this title without regard
15 to whether the harm that is the subject of the action or
16 the conduct that caused the harm occurred before such
17 date of enactment.